

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: APPROVED

Appeal Number: 2175923

Decision Date: 11/03/2021

Hearing Date: 10/18/2021

Hearing Officer: Christopher Taffe

Appearance for Appellant:



Appearance for MassHealth:

Harold Kaplan, DMD, on behalf of
DentaQuest (by phone)



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	APPROVED	Issue:	PA – Dental – Orthodontics
Decision Date:	11/03/2021	Hearing Date:	10/18/2021
MassHealth's Rep.:	H. Kaplan, DMD	Appellant's Rep.:	
Hearing Location:	HarborSouth Tower, Quincy		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated July 7, 2021, MassHealth denied Appellant's request for prior authorization of full orthodontic treatment. See Exhibit 1; 130 CMR 420.431. Appellant filed a timely appeal with the Board of Hearings on July 29, 2021. See Exhibit 1; 130 CMR 610.015(B). The appeal was originally scheduled to be heard on September 13, 2021 but was rescheduled to the later hearing date of October 18, 2021 per a request and good cause of the Appellant. See Exhibits 2 and 3; 130 CMR 610.048. Challenging a denial of a MassHealth of a request for assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's request for approval of the prior authorization request for braces or full and comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant's bite or malocclusion did not currently qualify for approval of comprehensive orthodontic treatment and, if so, are there any recent changes in the Dental Program to support an approval.

Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by his mother. MassHealth was represented at hearing by Dr. Kaplan, an orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. All parties testified telephonically.

Dr. Kaplan testified that the MassHealth insurance does not cover orthodontics for every single child who is a MassHealth member with dental insurance. By law, the agency can only cover requests and pay for treatment for full orthodontics when the bad bite or "malocclusion" meets a certain high standard. It is not enough to say that the Appellant has imperfect teeth, or that the member and their family has been told by a dentist that the patient would generally need or benefit from braces. Instead, to obtain approval, the bite or condition of the teeth must have enough issues or discrepancies that it falls into the group of malocclusions with the most severe issues.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. As required, the Appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and arrived at a score of 18. The submission from Appellant's orthodontic provider did not indicate a claim for one of the seven automatic qualifying conditions. Appellant's orthodontic provider also did not submit any separate medical necessity narrative from another appropriate medical provider in accordance with the instructions on the latter pages of the HLD form in support of the request.

MassHealth testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that during the initial denial and review of the materials, DentaQuest found a HLD score of 11. Dr. Kaplan stated that he took a second review for the hearing, and he found discrepancies with a HLD score of 20. Because there was no score at or 22, he believed he had to uphold the denial of the PA request as the malocclusion was not severe enough at the present time.

Appellant's mother expressed disappointment over the scoring and denial, stating that she and her son's dentists believe he needs braces. Appellant suffers from severe spacing on both his upper and lower jaw, caused in part (on the upper jaw) by missing teeth.

In the HLD form (found in Exhibit 4, page 12), there are potential points allowed on the HLD index if the member has "*congenitally missing posterior teeth*". Posterior adult dentition includes molars and bicuspid, or those teeth usually located in the back part of the mouth, and no dentist, including Dr. Kaplan, gave any points for posterior missing teeth. Although both sides agreed that Appellant has naturally missing teeth, Appellant thought the missing teeth were canines, while the MassHealth Representative believed there were the lateral incisors. Regardless of whether they are incisors or cuspid (a/k/a canines) the missing upper teeth are anterior teeth due to their location in the front part of the mouth.

Near the conclusion of the hearing the MassHealth Representative stated that, even if this appeal was not approved, the Appellant may want to consider re-applying in the future if he could, as it was his understanding that the MassHealth agency may be revising their standards for orthodontic approval soon and that, because Appellant's case was so close and his bite conditions were so unique, he may qualify for approval in the near future.

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. Appellant is currently a [REDACTED] old MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony and Exhibit 4)
2. There is no evidence of a HLD score of 22 or more points.
 - a. Appellant's provider submitted the request with a HLD score of 18 points.
 - b. DentaQuest, during the initial review leading to the denial notice, found an HLD score of 11 points.
 - c. At hearing, the DentaQuest representative testified that he found an HLD score of 20 points.
(Testimony and Exhibit 4)
3. Appellant has two missing upper anterior teeth located in the anterior, or front part of the mouth. (Testimony and Exhibit 4)

Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,¹ covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.431 contains the description and limitation for orthodontic services. As to comprehensive orthodontic requests, that regulation reads in relevant part as follows:

420.431: Service Descriptions and Limitations: Orthodontic Services

¹ 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "Dental Manual" include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices.

See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last viewed on October 25, 2021).

(A) General Conditions. The MassHealth agency pays for orthodontic treatment, subject to prior authorization, service descriptions and limitations as described in 130 CMR 420.431. ...

(C) Service Limitations and Requirements.

...
*(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime younger than 21 years old and **only when the member has a handicapping malocclusion**. The MassHealth agency determines whether a malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the Dental Manual. ...*

(Bolded emphasis added.)

The HLD Authorization Form found in Exhibit 4, pages 6-9 and page 12, is from Appendix D, and reflects the HLD standard that was in effect at the time of the denial notice.

As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an “auto qualifying” condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or
- (3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

In this case, all three dentists who scored the bite, including Appellant’s orthodontist, did not find a score of 22 points or higher. The orthodontist also did not submit an appropriate and separate set of medical necessity letters and documentation to justify the need for the request for braces.

That leaves only a need to review the auto qualifying rules. At the time of the denial notice, there were only seven conditions, and the record did not show any evidence or claim of Appellant having any of those qualifications. Per Exhibit 4, pages 6 and 12, those seven conditions were:

1. *Cleft Palate Deformity or Cranio-Facial Anomaly;*
2. *Severe Maxillary Anterior Crowding greater than 8 mm;*
3. *Deep Impinging Overbite with severe soft tissue deformity;*
4. *Reverse Overjet greater than 3.5 mm;*
5. *Severe Traumatic Deviations (refers to facial accidents rather than congenital deformity);*
6. *Impacted Permanent Anterior teeth; and*
7. *Overjet greater than 9 mm.*

However, on the weekday immediately preceding the October 18, 2021 hearing date, on Friday, October 15, 2021, the MassHealth Dental Program released a new Office Reference Manual.² This was hinted at by the MassHealth Representative during the hearing but neither the MassHealth Representative nor the Hearing Officer were aware of it, or had the information in their possession on that day. A review of the new Dental Manual that exists shows new grounds for approval, and one of those new grounds is directly relevant for this appeal. Specifically, in addition to the seven grounds above, there are now six additional conditions which allow for automatic approval, and they are as follows:

8. *Spacing of 10 mm or more in either arch;*
 9. *Anterior Crossbite of 3 more maxillary teeth per arch;*
 10. *Posterior Crossbite of 3 more maxillary teeth per arch;*
 11. ***Two or more congenitally missing teeth (excluding third molars) of at least one tooth per quadrant;***
 12. *Lateral Open Bite of 2 mm or more; of 4 or more teeth in an arch; and*
 13. *Anterior Open Bite of 2 mm or more; of 4 or more teeth in an arch.*
- (**Bolded** emphasis added.)

In this case, the parties agree that Appellant is missing two anterior teeth, and they are mirror-image teeth in that he is missing one of his upper left anterior teeth and one of his upper right anterior teeth. Per the x-rays and Dr. Kaplan's testimony, they are the upper lateral incisors on both sides of the upper jaw.

For those reasons, I find that Appellant meets the auto-qualifying standard that came out three days before his hearing. While the MassHealth Representative is correct that Appellant could be approved in the future, it does not appear to serve anybody's interest or be an efficient use of time for the Appellant and provider to take the time to resubmit a new prior authorization request in the future. Upon review, this Appellant satisfies the current standard for a severe and handicapping malocclusion and he is entitled to the comprehensive orthodontic treatment he seeks.

Accordingly, this appeal is APPROVED.

² See <https://www.masshealth-dental.net/Documents> and specifically <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (both last viewed on October 29, 2021).

Order for MassHealth

DentaQuest and/or the agency must, no later than 30 days of the date of this decision, send notice of approval to both Appellant's family and the provider who submitted this prior authorization request.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact MassHealth Dental Customer Service at 1-800-207-5019. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

Christopher Taffe
Hearing Officer
Board of Hearings

cc: DentaQuest